

REMARKS

Claims 1-36 are pending in the application, with Claims 1, 6, 11, 16, 21, 25, 29, and 33 being the independent claims.

Claim 1 has been amended herein to more clearly define the invention. No new matter has been added.

In the Office Action, Claims 1-36 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,493,757 to Sakai et al. In light of the foregoing amendment and the following remarks, Applicant traverses this rejection.

For a rejection to be proper under 35 U.S.C. §102, the cited art must “teach *every* aspect of the claimed invention either explicitly or impliedly.” MPEP § 706.02 (emphasis added). Applicant asserts that Sakai et al. fails to teach or suggest, either explicitly or impliedly, at least several aspects of the claimed invention.

Sakai et al. relates to a network system in which a plurality of image processing apparatuses are connected. A reader unit 1 reads an original image and outputs image data corresponding to the original image to a printer unit 2 and an image input-output control unit 3. The printer unit 2 records an image corresponding to the image data from the reader unit 1 and the image input/output control unit 3 onto paper. The image input-output control unit 3 is connected to the reader unit 1 and is constituted by a facsimile unit 4, a file unit 5, a computer interface unit 7, a formatter unit 8, an LAN interface unit 9, and a core unit 10, which controls data flow through the reader unit 1 and parts of the input/output control unit 3.

Sakai et al. further discloses a device table for storing information of input and output devices usable in the network system. The device table includes information representing the types of devices and whether the devices are included in the image processing apparatus 1100

or are connected through the LAN. In the device table of the second embodiment, a display screen also displays usable optical scanners to allow discrimination between processing speeds (e.g., high, medium, and low). For example, the display shows low speed for an RS232C interface, high for an SCSI interface, and medium for a connection through a LAN. (See col. 11, lines 21-38.)

However, Sakai et al. does not teach or suggest determining (or detecting) whether image data are binary data per pixel or multilevel data per pixel, as recited in Claims 1, 6, 16, 25, and 33. The Office Action cites column 4, lines 55-58 as reciting this feature. However, this portion of Sakai et al. only discloses that a CPU 114 controls the image processing unit and the interface unit 113 in accordance with contents set at an operating unit 115—no reference is made with regard to image data being either binary data per pixel or multilevel data per pixel. As such, Applicant asserts that this, along with the rest of Sakai et al., neither teaches nor suggests determining (or detecting) whether image data are binary data per pixel or multilevel data per pixel, and controlling a transfer path for the image data based on the determination (or detection), as recited in each of independent claims 1, 6, 16, 25, and 33.

Furthermore, Sakai et al. does not teach or suggest selecting a transmission (or transferring) speed for transmitting (or transferring) image data, and controlling a scanning operation in accordance with the selected transmission (or transferring) speed, as recited in independent claims 11, 21, and 29. The Office Action points to column 11, lines 25-30 as reading on this feature. However, as noted above, this portion of the specification discusses only displaying usable optical scanners and their relative transmission speeds as a way for a user to discriminate between the optical scanners. Applicant asserts, however, that this is distinct from selecting a transmission (or transferring) speed and controlling a scanning operation in

accordance with the selected transmission (or transferring) speed, as recited in each of independent claims 11, 21, and 29.

As such, Applicant asserts that Sakai et al. fails to teach or suggest every feature of independent claims 1, 6, 11, 16, 21, 25, 29, and 33.

The remaining claims are dependent claims which depend from one of the above independent claims and are therefore patentable over the art of record for reasons noted above with respect to the independent claims. In addition, each recite features of the invention still further distinguishing it from the applied art. Favorable and independent consideration thereof is respectfully sought.

This Amendment could not have been presented earlier in the prosecution, inasmuch as it was earnestly believed that the claims heretofore on file were in condition for allowance. It is believed that the Examiner's familiarity with the present application will allow full consideration hereof without the expenditure of undue time and effort.

Applicant submits that this application has been placed in condition for allowance. Favorable reconsideration and early passage to issue of the above application are respectfully sought.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our New York Office at the below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Stahl', is written over a horizontal line.

Attorney for Applicant
Lawrence A. Stahl
Registration No. 30,110

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
LAS/MJD:ksp
DC_MAIN 147308 v 1